

## Remarks

Claims 5-21, and 23-24 are pending.

Claims 5-21, and 23-24 are rejected.

The rejections are traversed.

### Claim Rejections under 35 USC § 103

*A. The Examiner has not considered the Declaration filed under 37 CFR 1.132*

In the response dated June 27, 2006, the Applicant submitted a Declaration under Rule 1.132 of Scott A. Pahl, Ph.D describing why the claimed hourglass shaped optical window is not obvious.

The Examiner is reminded that MPEP 716.01 (B) states that:

(B) Consideration of evidence. Evidence traversing rejections, when timely presented, must be considered by the examiner whenever present. All entered affidavits, declarations, and other evidence traversing rejections **are acknowledged and commented upon by the examiner in the next succeeding action.** (Emphasis added)

The Examiner has not acknowledged the declaration, nor given any comments on the evidence within the declaration.

The Examiner is reminded that MPEP 716.01 (B) further states that:

Where the evidence is insufficient to overcome the rejection, the examiner must specifically explain why the evidence is insufficient.

The Examiner has given no specific explanations why the evidence in the declaration was insufficient, yet has still rejected the claims. The Applicant respectfully requests that the Examiner acknowledge and comment upon the declaration as mandated in MPEP 716.01.

*B. The Examiner has not considered each and every element of the claims*

The Examiner is reminded that:

MPEP 2143.03 All Claim Limitations Must Be Taught or Suggested

To establish prima facie obviousness of a claimed invention, **all the claim limitations must be taught or suggested** by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). (Emphasis added)

1. *Claim 20*

With respect to an optical window of claim 20, the Examiner has not identified a first side, a second side, a third side, or a minimum distance line.

2. *Claim 21*

With respect to claim 21, claim 21 includes "an intensity of the light source varies according to angular deviation from the axis." This language is not mentioned in the rejection claim 21.

In addition, claim 21 recites that "the first and second sides of each optical window are shaped such that **a distance between the first and second sides varies inversely to angular deviation from the axis along a centerline of the optical window.**" However in the rejection, the Examiner characterizes claim 21 as "first and second sides of each optical window are shaped such that, **when the light path intersects the optical window, an intensity of the light passing through a line ...**"

The elements of claim 21 that the Examiner is quoting were deleted from claim 21 in the responses dated November 16, 2006 and December 14, 2006. (Note that the response filed on December 14, 2006 had the same claims as the November 16, 2006 response, however, it corrected a clerical mistake was made to claim 24.) The following is the marked up version of claim 21 from the response dated December 14, 2006:

21. (currently amended) The optical device of claim 20, wherein:

an intensity of the light source varies according to angular deviation from the axis;  
the first and second sides of each optical window are shaped such that a distance between  
the first and second sides varies inversely to angular deviation from the axis along a centerline of  
the optical window[.]] when the light path intersects the centerline of the optical window,~~an~~  
~~intensity of the light passing through a line between the first and second sides that is substantially~~  
~~perpendicular to a centerline of the optical window is substantially equal to intensities of light~~  
~~passing through other lines between the first and second sides that are substantially perpendicular~~  
~~to the centerline of the optical window;~~ and  
the centerline of the each optical window is disposed between the first side and the  
second side of the optical window.

As can be seen, the claim language quoted by the Examiner includes deleted claim language and does not include added claim language.

3. *Claim 22*

Furthermore, claim 22 was cancelled in the response dated November 16, 2006. However in the current Office Action, the Examiner provided arguments why claim 22 was rejected.

4. *Claim 5*

In addition, the Examiner has rejected claim 5 stating that “one skill in the optical field would realize the variation in width of the optical window corresponds to a light intensity.” In contrast, claim 5 recites that “a variation in width of each window corresponds to a light intensity distribution of an associated light source.” The Examiner is apparently disregarding the additional language of “distribution of an associated light source.”

5. *The Applicant requests that the Examiner address each and every element*

The Applicant respectfully requests that the Examiner address each and every element of the claims. In particular, the Applicant respectfully requests that the Examiner address the elements of the claims as they currently stand, not as they were before amendment.

### **Conclusion**

For the foregoing reasons, reconsideration and allowance of claims 5-21, and 23-24 of the application as amended is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

**Customer No. 32231**

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

A handwritten signature in dark ink, appearing to read 'Derek Meeker', is written over a horizontal line.

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